



Issuing Department: Internal Audit, Compliance, and Enterprise Risk Management

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Responding to Governmental Investigations and Law Enforcement Requests

I. Summary of Policy

NYU Langone Health is committed to cooperating fully with all reasonable requests from governmental agencies, including both regulatory agencies and law enforcement, that have legal authority over NYU Langone Health's activities.

II. Policy Purpose

To provide guidance to the NYU Langone Health community on how to respond appropriately to inquiries from regulatory agencies and law enforcement about NYU Langone Health's activities, enabling NYU Langone Health to cooperate fully with a government or law enforcement investigation or request.

III. Applicability of the Policy

This policy applies to employees, trustees, officers, faculty, medical staff, residents, fellows, students, volunteers, trainees, vendors, contractors, consultants, sponsored individuals, and agents of NYU Langone Health.

IV. Definitions

Authorized Investigator means an authorized representative, including surveyors, of federal, state, or city governmental agencies, including both regulatory agencies and law enforcement that has legal authority over NYU Langone Health's activities. An Authorized Investigator may be from a variety of governmental agencies or their agents, including but not limited to the Department of Health and Human Services, New York State Department of Health, New York City Department of Health and Mental Hygiene, The Joint Commission, Commission on Accreditation of Rehabilitation Facilities, Internal Revenue Service, Federal Bureau of Investigation, New York City Police Department, or the New York State Attorney General.

Legal Process means a summons, complaint, subpoena, order to show cause, notice of probate or petition, or court order that may be served upon NYU Langone Health that commands an individual and/or entity to testify or to produce documents at an attorney's office or at court, or to take another action ordered by a court. Please see Appendix A for additional information regarding compliance with Legal Process.

NYU Langone Health includes the NYU Langone Health System, NYU Langone Hospitals (including all inpatient and ambulatory facilities), NYU School of Medicine, NYU Grossman Long Island School of Medicine, and all entities that are controlled by any of them, except where specifically excluded. This policy has also been adopted by the Family Health Centers at NYU Langone (the "FHC"); therefore, for purposes of this policy, "NYU Langone Health" also includes the FHC, and any entity controlled by it, except where specifically excluded.

V. Policy

NYU Langone Health cooperates fully with reasonable requests from an Authorized Investigator that relate to NYU Langone Health's activities. Given the nature of NYU Langone Health's activities, certain requests may require that Legal Process be appropriately served prior to NYU Langone Health providing such documents, witnesses, or other such actions, at which time NYU Langone Health will cooperate.

Under no circumstances shall any member of the NYU Langone Health community ever lie or make misleading statements to an Authorized Investigator, or pressure any other person to hide information from, or provide false information to, an Authorized Investigator. No member of the NYU Langone Health community shall knowingly or recklessly alter, destroy, mutilate, conceal, cover up, or falsify any record or document (i) with the intent to impede any investigation by a governmental agency, litigation, or administration of any matter within the jurisdiction of a federal or state department or agency, or any bankruptcy proceeding and/or (ii) that is relevant to such a proceeding, or otherwise subject to an instruction to preserve such documents from the Office of Legal Counsel ("OLC").

To the extent a request covered by this Policy relates to the FHC and is within the scope of services provided by NYU Langone Health, NYU Langone Health will respond and/or coordinate with FHC leadership. For requests outside the scope of NYU Langone Health's services to the FHC, FHC leadership will be notified and provided with any documentation provided to NYU Langone Health.

VI. Procedures

A. General Procedures

Authorized Investigators may contact a member of the NYU Langone Health community in a variety of ways. If contact was made by letter or other written correspondence, the requesting document should be forwarded to the Office of Legal Counsel at 212-404-4075 as soon as possible. **Legal Process, which include subpoenas, summonses, complaints, orders to show cause, notice of probate or petitions, and other court orders, may only be accepted by designated offices in accordance with the NYU Langone Health Service of Process Policy.**

Any member of the NYU Langone Health community who is approached at work or at home by an Authorized Investigator concerning NYU Langone Health should ask for the following:

- 1) the Authorized Investigator's name and agency affiliation (obtain a business card when possible);
- 2) proof of his/her identity and credentials;
- 3) a description of the information sought; and
- 4) if there are any Legal Process to be served (e.g., subpoena or search warrant), a copy.

*In the event you suspect the individual is not who they purport to be, refer to the Office of Legal Counsel. Verification of identity may also be established by contacting the agency directly to verify the individual's credentials.

If a member of the NYU Langone Health community is contacted at work (or learns of an

unaccounted visit) by an Authorized Investigator (i) to coordinate a planned visit or survey or (ii) inquire about matters related to individual persons, including patients, unrelated to NYU Langone Health activities, report as appropriate to:

- The NYU Langone Health Security Operations Center at 212-263-5120 or x7-3000 (for Main Campus), the NYU Langone Orthopedic Hospital Security Desk at 212-598-6202, or the NYU Langone Hospital-Brooklyn Security Desk at 718-630-8115 (for all Brooklyn locations). The Security Office will verify the Authorized Investigator's identity and credentials, and notify appropriate administrative officials depending on the nature of the contact;
- The Chief Regulatory Officer at 347-578-0560 (for any matter relating to any inpatient or outpatient hospital facility); or
- The Office of Legal Counsel at 212-404-4075 (for all other matters).

B. Requests for an Interview

Authorized Investigators may request to interview a member of the NYU Langone Health community. You should be aware of the following:

- There is no obligation to consent to an interview prior to speaking with your supervisor and/or the Office of Legal Counsel, regardless if you are approached at work or at home.
- You may request to have the interview conducted during normal business hours.
- Answers to Authorized Investigators questions must be accurate; never speculate or guess. If you are not sure of an answer, say so.

C. Documentation Requests

Authorized Investigators may request, either in person during an onsite visit or via written requests, documents, including patient records. In most cases, requests for documentation must be accompanied by the appropriate Legal Process and accepted in accordance with the Service of Process Policy. Requests for medical (patient) records from certain Authorized Investigators (e.g., Joint Commission surveyor) may not require the patient's authorization or Legal Process. Contact the Office of Legal Counsel at 212-404-4075 or the Privacy Officer at 212-404-4079 for assistance prior to releasing any records.

D. Search Warrants

A search warrant is a type of Legal Paper that authorizes a law enforcement agent to search for and seize property that may be evidence of a crime. Should an Authorized Investigator present a search warrant:

- 1) ask for the identification and obtain and record the names of each of the Authorized Investigators and their agency affiliation(s);
- 2) contact the Office of Legal Counsel at 212-404-4075;
- 3) request that the search not begin until legal counsel arrives (unless otherwise directed by OLC); and
- 4) request copies of the warrant and affidavit providing reasons for the issuance of the warrant.

Never consent to an expansion of the search beyond the scope of the search warrant but do not interfere with the search. You should object to any search of privilege documents. This includes but is not limited to:

- any attorney correspondence

- patient information (unless otherwise permitted by the search warrant or valid HIPAA and New York State Authorization or otherwise required by law)
- personnel files

Once advised by the Office of Legal Counsel, attempt to negotiate an acceptable methodology with the Authorized Investigator to minimize disruptions and to keep track of the process. Monitor and record the manner in which the search is conducted, noting in detail the areas and files searched, the time periods, and any seized items. If possible, video record the search. If the Authorized Investigator claims the taping interferes with the search, make a record of the refusal. Do not persist if the Authorized Investigator have warned that they regard the taping as interfering.

You are not required to speak with the Authorized Investigator but must provide the documents requested in the warrant (if any).

VII. Policy Enforcement

The Office of Internal Audit, Compliance, and Enterprise Risk Management (“IACERM”) has general responsibility for implementation of this policy. Individuals who are found to be non-compliant with applicable federal, state, or local laws and regulations, professional standards, and institutional policies may be subject to disciplinary action up to and including termination of employment or association with NYU Langone Health. Such institutional policies include but are not limited to the Code of Conduct, Corporate Compliance Program, and the policies set forth in the Faculty Handbook, Residency Training Program Contract, GME House Staff manual, Postdoctoral Handbook, Student Handbook, By-laws of the Medical Staff, and Patient Care and Safety Standards. This Policy shall remain in effect unless terminated or superseded by a revised and/or updated policy issued by IACERM.

VIII. Related Policies and Documents

Breach Notification

By-laws of the Medical and Dental Staff

Code of Conduct

Compliance Concerns: Reporting, Investigating and Protection from Retaliation Policy

Compliance Concerns: What You Need to Know About the Reporting and Investigation Process Guide

Notice to Employees Concerning Rights and Remedies Under the Pilot Program for Enhancement of Employee Whistleblower Protection (41 U.S.C. 4712)

Corporate Compliance Program

Record Retention Policy

Service of Process Policy

IX. Legal Authority/References

Federal Deficit Reduction Act, 42 U.S.C. §1396a (a)(68) Federal False Claims Act 31 U.S.C. §3729-3731

New York State Department of Health Office of Medicaid Inspector General Compliance Program Guidance for General Hospitals, N.Y. Soc. Serv. Law §363-d(1), (2) and (4); 18 N.Y.C.R.R. §521.1(a) and §521.3(a)

New York State False Claims Act, State Finance Law, §187-194

OIG Compliance Program Guidance for Hospitals, 63 Federal Register 8987, February 23, 1998,

Federal Sentencing Guidelines
OIG Supplemental Compliance Program Guidance for Hospitals, 70 Federal Register 4858,
January 31, 2005
Pilot Program for Enhancement of Contractor Protector from Reprisal for Disclosure of Certain
Information, 41 U.S.C. §4712

X. Version History

May 1994	Original Policy
August 2003	Reviewed
February 2014	Reviewed and Revised
July 27, 2017	Reviewed and Revised
August 1, 2019	Reviewed and Revised

This version supersedes all NYU Langone Health (as defined in this Policy) previous policies, including but not limited to NYU Hospitals Center, New York University School of Medicine, Lutheran Medical Center, and Winthrop University Hospital.

Appendix A: The Greater New York Hospital Association (GNYHA) sample flowchart on responding to law enforcement is included herein as Appendix A on the following page. This should be used as guide on types of documents, not as official legal advice on whether compliance with certain law enforcement requests is required or not. NYU Langone Health workforce members should consult the Office of Legal Counsel or other appropriate department for law enforcement requests as described in this Policy. Subpoenas should further be processed in accordance with the Service of Process Policy.

